

Appendix N

COASTAL ZONE CONSISTENCY EVALUATION REPORT

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OCEAN DREDGED MATERIAL DISPOSAL SITES PALM BEACH HARBOR AND PORT EVERGLADES HARBOR FLORIDA COASTAL ZONE CONSISTENCY PROGRAM FEDERAL CONSISTENCY EVALUATION PROCEDURE

PROJECT SUMMARY

The U.S. Environmental Protection Agency (EPA) with the cooperation of the U.S. Army Corps of Engineers (USACE), Jacksonville District, investigated alternative ocean dredged material disposal sites off the east coast of Florida, one to accommodate Palm Beach Harbor and one to accommodate Port Everglades Harbor. The purpose of this investigation was the final designation of an Ocean Dredged Material Disposal Site (ODMDS) for each location. The environmental amenities in the vicinity of each alternative site were investigated to determine the suitability of each location as an ODMDS. The physical, chemical, and biological characteristics of each site were examined. The fate of dredged materials dispersants from each site was considered. Non-ocean alternatives for dredged material disposal were also evaluated.

Alternative sites considered for Palm Beach Harbor include sites located approximately 3 nautical miles, 4.5 nautical miles, and 9 nautical miles offshore (oriented east northeast of the Lake Worth Inlet). Alternative sites considered for Port Everglades Harbor include sites located approximately 4 nautical miles and 7 nautical miles offshore (oriented east northeast of Port Everglades). Investigations showed that the preferred ODMDSs for Palm Beach Harbor and Port Everglades Harbor were the alternative sites located 4.5 and 4 nautical miles offshore, respectively. The preferred sites (each approximately 1 square nautical mile [3.4 square kilometers (km²)]) consist of primarily soft-bottom habitat. Each site is located on the upper continental slope on the western edge of the Florida Current. The depth of each site exceeds 150 meters (m) [492 feet (ft)]. Based on EPA and USACE surveys, it was concluded that no natural reefs, no natural or cultural features of historical importance, and no areas of special scientific importance are located within or near the preferred sites. Each site meets all evaluation criteria for use as an ODMDS. The conclusion is that the preferred sites are suitable for designation for disposal of dredged material.

CONSISTENCY DETERMINATION

1. Chapter 161, Beach and Shore Preservation. This chapter establishes the State of Florida's Beach Management Plan and associated inlet management programs. The goals of the Beach Management Plan include the extension of the life of beach nourishment programs and the maximization of the infusion of beach quality material into systems. The chapter also establishes a coastal construction permit program, the intent of which is to regulate construction projects located seaward of established coastal construction control lines which might have an affect on natural shoreline processes.

Consistency Statement: *Beach placement is the preferred method of disposal for beach-quality sediments in Palm Beach and Port Everglades Harbors. Ocean disposal site designation provides an alternative disposal site when material is not compatible for beach placement or a beach placement alternative is not available. If beach placement is not the preferred cost effective alternative, the USACE has various legislative authorities to share the incremental costs of*

beneficial use options. For example, Section 145 of the Water Resources Development Act (WRDA) of 1976 as amended by Section 933 of WRDA 1986, Section 207 of WRDA 1992, and Section 217 of WRDA 1999, authorizes the USACE to place suitable dredged material on local beaches if a State or local government requests it. The incremental costs of beach placement under this authority are shared on a 65% Federal and 35% non-Federal basis. This project does not include construction activities that would affect beach or shoreline protection. Therefore, this work will be consistent with this chapter.

2. Chapters 186 and 187, State and Regional Planning. These chapters establish the State Comprehensive Plan that sets goals to articulate a strategic vision for the State of Florida's future. The purposes to define in a broad sense, goals, and policies that provide decision-makers directions for the future and long-range guidance for orderly, social, economic, and physical growth.

Consistency Statement: *The proposed project will comply with the strategic vision of the State of Florida as mentioned in the State and Regional Planning Chapters.*

2. Chapter 252, Disaster Preparation, Response, and Mitigation. This chapter creates a State Emergency Management Agency, with authority to provide for the common defense; to protect the public peace, health, and safety; and to protect and preserve the lives and property of the people of Florida.

Consistency Statement: *The designation of off shore dredged material disposal sites for Palm Beach and Port Everglades Harbors will not jeopardize the public health, safety, or welfare of the area near the project area, but could compliment the chapter's goals. Therefore, this work will be consistent with the intent of this chapter.*

3. Chapter 253, State Lands. This chapter governs the management of submerged State lands and resources within these lands. This includes archeological and historical resources; water resources; fish and wildlife resources; beaches and dunes; submerged grass beds and other benthic communities; swamps, marshes, and other wetlands, mineral resources; unique natural features; submerged lands; disposal islands, and artificial reefs.

Consistency Statement: *The proposed action does not occur within State waters. Additionally, modeling has demonstrated that dredged material deposited at the sites will not be transported to State submerged lands. No reasonably foreseeable significant impacts to State submerged lands or resources within these lands are expected as a result of implementation of the proposed project. Therefore, the project is consistent with this chapter.*

4. Chapters 253, 259, 260, and 375, Land Acquisition. These chapters authorize the State to acquire land to protect environmentally sensitive areas.

Consistency Statement: *Due to the off shore location of the proposed disposal sites, there is no provision for State acquisition. These chapters do not apply.*

5. Chapter 258, State Parks and Aquatic Preserves. This chapter authorizes the State to manage State parks and preserves. Consistency with this chapter would include consideration of projects that would directly or indirectly adversely impact park property, natural resources, parks programs or management or operations.

Consistency Statement: *The proposed action does not include any activity within a State Park or Aquatic Preserve. No reasonably foreseeable significant impacts to State Parks or Aquatic Preserves are expected as a result of implementation of the proposed project. Therefore, the project is consistent with this chapter.*

6. Chapter 267, Historic Preservation. This chapter established the procedures for implementing the Florida Historic Resources Act responsibilities.

Consistency Statement: *The proposed designation of dredged material disposal sites has been coordinated with the State Historic Preservation Officer. The work will be consistent with the goals of this chapter. There are no known features of historical importance in the vicinity of the proposed sites, and therefore it is unlikely that the proposed site designations will result in any impact to these areas. Bottom video surveys and sidescan sonar surveys of the alternative sites did not reveal any such areas.*

7. Chapter 288, Economic Development and Tourism. This chapter directs the State to provide guidance and promotion of beneficial development through the encouragement of economic diversification and promotion of tourism.

Consistency Statement: *The areas in which the proposed disposal sites are located do not support any viable tourist or economic resource. The goals in this chapter are not applicable.*

8. Chapter 334 and 339, Public Transportation. This chapter authorizes the planning and development of a safe and efficient public transportation system.

Consistency Statement: *The proposed disposal site designation will not affect public transportation. Therefore, this chapter does not apply.*

9. Chapter 370, Living Saltwater Resources. This chapter directs the State to preserve, manage, and protect the marine, crustacean, shell and anadromous fishery environment; to regulate fishermen and vessels of the state engaged in the taking of such resources within or without state waters; to issue licenses for the taking and processing of fishery products; to secure and maintain statistical records of the catch of each species; and to conduct scientific, economic, and other studies and research.

Consistency Statement: *The designation and utilization of the offshore disposal sites will not result in long-lasting, adverse effects on the activities covered by this chapter. The implementation of the proposed action will be consistent with the provisions of this chapter. Most commercial and recreational fishing activity in the vicinity of the proposed sites is concentrated in inshore and nearshore waters. No natural hardbottom areas are known to occur in proximity to the proposed sites. In short, the proposed sites do not represent a unique habitat for any of the important commercial or recreational fisheries. Use of the sites will smother the non-motile or slow moving benthic organisms at the sites. However, the ability of these organisms to recolonize in similar sediments renders this impact short-term.*

10. Chapter 372, Living Land and Freshwater Resources. This chapter establishes the Game and Freshwater Fish Commission and directs it to manage freshwater aquatic life and wild animal life and their habitat to perpetuate a diversity of species with densities and distributions that provide sustainable ecological, recreational, educational, scientific, aesthetic, and economic benefits.

Consistency Statement: *The proposed action does not affect or involve any freshwater aquatic communities or wildlife habitat. Therefore, this chapter is not applicable.*

11. Chapter 373, Water Resources. This chapter provides the authority to regulate the withdrawal, diversion, storage, and consumption of water.

Consistency Statement: *The proposed project does not include the usage of water resources as described in this chapter.*

12. Chapter 376, pollutant Spill Prevention and Control. This chapter regulates the transfer, storage, and transportation of pollutants and the cleanup of pollutant discharges.

Consistency Statement: *The transportation or discharge of pollutants is not included in the proposed actions of this project. Inadvertent spills of pollutants, such as fuels, will be handled per conditions set forth in the contract. Project work will conform to the intent of this chapter.*

13. Chapter 377, Oil and Gas Explorations and Production. This chapter authorizes the regulation of all phases of exploration, drilling, and production of oil, gas and other petroleum products.

Consistency Statement: *The actions proposed for this project do not include the exploration, drilling, and/or the production of oil, gas, or any other petroleum product. Goals and concerns within this chapter do not apply.*

14. Chapter 380, Environmental Land and Water Management. This chapter establishes criteria and procedures to assure the local land development decisions consider the regional impact of large-scale development.

Consistency Statement: *The proposed actions for this project have been coordinated with the local regional planning council and the work will conform to the goals of this chapter.*

15. Chapter 388, Arthropod Control. This chapter provides for a comprehensive approach for abatement or suppression of mosquitoes and other arthropod pests within the state.

Consistency Statement: *Actions taken under the proposed project will satisfy the goals and intents of this chapter.*

16. Chapter 403, Environmental Control. This chapter authorizes the regulation of pollution of the air and waters of the state by the Department of Environmental Protection.

Consistency Statement: *The USACE and EPA will evaluate all federal dredged material disposal projects in accordance with the EPA criteria given in the Ocean Dumping Regulations (40 CFR 220-229), the USACE regulations (33 CFR 209.120 and 209.145), and any state requirements. The USACE will also issue permits to private dredged material disposal projects after review under the same regulations. EPA has the right to disapprove any ocean disposal project if, in its judgment, all provisions of the Marine Protection, Research, and Sanctuaries Act and associated implementing regulations have not been met.*

17. Chapter 582, Soil and Water Conservation. This chapter establishes policy for the conservation of State soils and water through the Department of Agriculture. Land use policies will be evaluated in terms of their tendency to cause or contribute to soil erosion or to conserve, develop and

utilize soil and water resources either on-site or on adjoining properties affected by the work. Particular attention will be given on or near agricultural lands.

Consistency Statement: *The proposed project area is not located near agricultural lands. Goals and concerns addressed in this chapter are not applicable.*

CONCLUSION

The proposed project as described in the project EIS is consistent to the maximum extent practicable with the enforcement policies of the above Florida Statutes.